

BEFORE THE FEDERAL ELECTION COMMISSION

In re: Brian Foley

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MUR 6566

ANSWER

This responds to the letter dated November 5, 2015. This Firm represents Brian Foley ("Foley"), and, we thank you for the opportunity to present this correspondence to demonstrate that no further action should be taken by the Federal Election Commission (the "Commission") against Foley.

On behalf of Foley, we answer as follows:

1. The November 5, 2015 letter alleges that Foley may have committed violations of the Federal Election Campaign Act of 1971, as amended (the "Act"). Specifically, the letter alleges that Foley may have made "contributions in the name of another," may have violated applicable contribution limits, and may have violated a prohibition on corporate contributions.
2. For each allegation, the Commission bears the burden of proof, and, for each allegation, the Commission has failed to satisfy that burden.
3. 52 U.S.C. §30122 does not, on its face, prohibit gifts made to third parties who decide to voluntarily contribute to a campaign. The Commission has made no showing or allegation that any of the individuals referenced did not voluntarily choose to contribute, that they would not have contributed even if Foley did not make gifts to them, or that the contributions made by these individuals came solely out of funds from Foley.
4. The Commission has made no showing or allegation that the contributions made by these individuals were made pursuant solely and exclusively upon a suggestion by Foley. Even if they were, however, 52 U.S.C. §30122 does not, on its face, prohibit voluntary

contributions made by third parties, even if those contributions were made at the recommendation of a financial provider.

5. The Commission has no jurisdiction or authority to investigate or determine the appropriateness of the payment of dividends to individuals, including Foley's children.

6. The Commission has made no showing or allegation that Foley effectuated corporate contributions in violation of 52 U.S.C. §30118. Nothing within that statute prohibits direct campaign contributions from the personal funds of shareholders or others who happen to have an interest in a corporation.

7. A review of the transcript enclosed with your letter, without other substantiation, does not in and of itself demonstrate that Foley held the requisite intent to establish violations of the Act, particularly with regard to his wife's contributions to her own campaign. See Tab 1, p. 204 ("I understood I could give my wife money directly which she could contribute"); p. 254 (candidate "could put in as much [as] she wanted to").

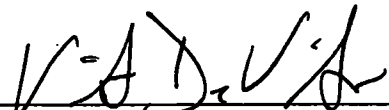
8. The Commission has made no showing or allegation that Lisa Wilson-Foley's contributions to her own campaign came solely and exclusively out of funds provided to her by Foley. Even if they did, however, the Commission lacks jurisdiction and authority to analyze, question, and sanction individuals for how they share and distribute funds and assets within their marriage. Moreover, under Connecticut law, where marital efforts were expended to maintain or enhance individual accounts, and where portion(s) of individual accounts are used for marital purposes, the accounts are marital assets, entitling Lisa Wilson-Foley as much right to their use as Foley himself. See, e.g., Murphy v. Murphy, 2001 WL 1420600 (Ct.Super. 2001).

9. Moreover, it is undisputed that Lisa Wilson-Foley was entitled to contribute an unlimited amount of funds to her own campaign. As such, and given that Foley's and Lisa

Wilson Foley's marriage represents, essentially, a partnership, it is axiomatic that any campaign contributions out of those shared funds be attributed to Foley only to the extent of and in proportion to his share of the same. See, e.g., 11 C.F.R. §110.1; U.S. v. Danielczyk, 791 F.Supp.2d 513 (2011), similar to the method of attributing a partnership contribution under 11 CFR 1110.1(e)

10. With regard to the complaints received regarding possible violations of the Act or Commission regulations regarding payments to John Rowland, as you point out, the complaints do not assert any wrongdoing on the part of Foley. Accordingly, while Foley appreciates the opportunity to respond to those complaints, he simply does not hold any information that is responsive to them.

Kindly accept this response as demonstration that no further action should be taken by the Commission against Foley, and please do not hesitate to contact me for any further information you may require. It is Mr. Foley's intent to fully cooperate with your review and resolve the Commission's concerns as thoroughly and expeditiously as desirable by the Commission.



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